IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8452 of 2004
Date of Decision: 25.7.2007

Mohan Singh ...Petitioner

Versus

Union of India and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri V.S. Rana, Advocate, for the petitioner.

Shri H.S. Dhandi, Advocate, for respondent Nos. 6 and 7.

HEMANT GUPTA, J.

The petitioner in the present writ petition has impugned the order Annexure P.6 dated 6.5.2004, whereby claim of the petitioner for compassionate appointment against category-IV post on account of death of his father Balwant Singh in harness, was declined.

Balwant Singh, father of the present petitioner, was working as Ex-Dusting Operator. He died on 21.8.1999, leaving behind his widow, the present petitioner and one daughter. It is the pleaded case of the petitioner that the son i.e. the present petitioner and daughter of the deceased Balwant Singh, are married. The petitioner relied upon a circular dated 20.8.1990, contemplating appointments on compassionate grounds of a son, daughter or near relative of the deceased employee of the Corporation. In terms of the said instructions, the petitioner applied for compassionate appointment on 2.11.1999 on the ground that there is no earning member in the family. The said request for appointment on

compassionate grounds, was declined on 23.11.2002 without assigning any reasons. The said order became subject matter of challenge in Civil Writ Petition No. 4636 of 2003. The said writ petition was allowed on 22.11.2004, whereby the order dated 23.11.2002 was set aside on the ground that the impugned order does not give any reasons as to why the claim of the petitioner for appointment on compassionate grounds has been rejected. It was found that the amounts received by the family on account of death of Balwant Singh were not only for the petitioner but were also to be shared by the other members of the family and that the petitioner has only a small share in the agricultural land belonging to his family.

After the aforesaid order was passed, a detailed speaking order has been passed on 6.5.2004. It has been pointed out that the appointment on compassionate grounds in the Corporation were stopped vide circular dated 10/15.7.1998, but released vide circular dated 5.6.2000. By that time, the Office has received 367 applications for appointment on compassionate grounds against the available posts of 107 meant for appointment on compassionate grounds. The case of the petitioner was considered by the Committee comprising of three senior Officers during November/December, 2000 and was rejected as elder daughter of the deceased and the petitioner were married and appear to be settled. The committee recommended 97 cases for appointment by taking into consideration below poverty line criteria fixed by the Government of India. But subsequently in terms of circular dated 14.5.2001, it was clarified that the concept of below poverty line, is not applicable after the implementation of the 5th Pay Commission recommendations and all requests of compassionate appointments should be decided on merits.

Thereafter all the 270 rejected cases including that of the petitioner, were again submitted before the Committee on first come first served basis for filling up the balance posts for compassionate appointment. The name of the petitioner appeared at Serial No. 236 of the list of 270 cases. It was further found that in terms of the circular issued, the name of the petitioner can be kept on the list of eligible candidates for appointment on compassionate grounds for a period of 3 years and after the expiry of the said period, the claim of the petitioner for compassionate appointment cannot be considered.

The appointment on compassionate grounds is not a right. The same is regulated by the policy instructions issued by the employer. The compassionate appointment is granted so as to meet out acute financial hardship being suffered by the family of the deceased on account of sudden demise of the employee. It is not a source of appointment. Balwant Singh died on 21.8.1999. The claim of the petitioner was considered. His name does not figure in the available posts meant for appointment on compassionate grounds. In the reply, it has been pointed out that the petitioner was married during his father's lifetime so is the sister of the petitioner. The petitioner was paid about Rs.5 lacs under various welfare schemes. Balwant Singh was owner of 3/4th share of the land measuring 44 kanals 10 marlas. The suit land is being cultivated by the petitioner.

In view of the above, it cannot be said that the case of the petitioner is of an extreme hardship, which warrants an exception to the general rule that all appointments should be made on merit after inviting applications from all eligible candidates.

Consequently, I do not find any ground to interfere with the order passed on 6.5.2004. Hence, the present writ petition is dismissed.

25-07-2007 (HEMANT GUPTA)
ds JUDGE